

PERSONNEL RULES & REGULATIONS MANUAL

SECTION 1700 GRIEVANCE PROCEDURES

Section 1701. Grievance Policy

It is the policy of the City of Gaithersburg to provide a fair process whereby employees may voice complaints concerning specific issues related to their employment with the City. The objective is to improve employee-management relations through a prompt and impartial method of resolving problems and settling conflicts in a fair, equitable, and timely manner. All actions at any stage of the grievance process shall be characterized by fairness, frankness, courtesy, confidentiality, and respect for the dignity of each individual involved.

Employees are encouraged to informally discuss employment concerns and complaints with their immediate supervisor, the department chain of command, or with the Human Resources Department, whichever is most appropriate given the issue. Every effort should be made to resolve issues at the lowest supervisory level possible in a manner that is acceptable to all individuals involved.

Section 1702. Eligibility

Except as otherwise provided, only classified employees and unclassified management employees who have successfully completed their probationary period (as defined in this Manual) are eligible to use the grievance procedures process.

Section 1703. Retaliation Prohibited

Employees shall not be subjected to retaliation for making a complaint or filing a grievance. Any employee, who feels he/she has been retaliated against for making a complaint, filing a grievance, or supporting a co-worker's complaint or grievance, shall immediately report the matter to the Human Resources Director or the City Manager.

Section 1704. Discrimination & Harassment Complaints

Any City employee who believes that he/she has been a victim of discrimination, harassment, or sexual harassment as defined in this Manual may follow the procedures set forth in this policy or may make a complaint directly to the Human Resources Director or the City Manager. All discrimination, harassment, and/or sexual harassment complaints made to a supervisor or Department Head must be reported in writing to the Human Resources Director or the City Manager (if the Human Resources Director is involved in the complaint). Complaints must be made within 15 calendar days of the alleged discrimination or harassment.

The Human Resources Director and/or the City Manager will ensure that discrimination and harassment complaints are investigated promptly and thoroughly; if found to have merit, immediate steps will be taken to end the discrimination or harassment and appropriate disciplinary action will be taken.

Nothing in this policy shall preclude an employee from utilizing other available remedies under existing local, state, and federal legislation.

The City will make every effort to protect the confidentiality of employees involved in a claim of discrimination or harassment, to the extent that the investigation process permits. However, in the event of a legal proceeding, some records the City maintains may not be considered privileged from disclosure.

Section 1705. Grievable Issues

In general, grievable issues are those actions or inactions which the employee believes have affected his/her status or conditions of employment or complaints concerning specific issues related to his/her employment with the City. Such issues include, but are not limited to, differences of opinion

regarding work relationships or work environment, significant disagreement with performance evaluation, and/or disciplinary actions.

The City of Gaithersburg reserves the right to manage the affairs and operation of the City government, and accordingly, complaints involving management rights and prerogatives, (e.g., classification plan, salary schedules, contents of ordinances and resolutions, etc.) are not grievable. If there is a question as to whether an employee has access to the Grievance Procedure or whether an employee's complaint is grievable, the Department Head must contact the Human Resources Director to request a ruling. The Human Resources Director will consult with the City Attorney and/or City Manager and rule on the question of grievability within 10 calendar days of the request; the Grievance Procedure time limits will be extended accordingly. A copy of the ruling will be sent to the employee desiring to file the grievance.

Section 1706. Grievance Procedures

When an employee has a complaint, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. Any grievance not initiated or taken by the grievant to the next step within the stated time limits will be considered resolved. Any grievance response not timely provided to the grievant shall permit the grievant to immediately proceed to the next step in the grievance process. The parties may by mutual agreement waive any or all intermediate steps or meetings, with the exception of the initial complaint and reducing the grievance to writing. The parties may, by mutual agreement, extend any of the time periods established in these procedures. At each phase of the process, supervisory personnel shall inform the employee of the next step in the process and the time limits, should the decision not be satisfactory to the employee.

a. Informal Resolution

Prior to the submission of a formal grievance, the employee and his/her supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head and/or Human Resources Director as a resource to help resolve the grievance.

b. Formal Resolution

1. Step 1

If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within 15 calendar days of the event or within 15 calendar days of learning of the event or condition. The supervisor shall respond to the grievance within 10 calendar days after receipt of the grievance. The supervisor should, and is encouraged to consult with any employee of the City in order to reach an impartial, fair, and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor in the process of investigating the complaint is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The supervisor shall send copies of the grievance and response to the Department Head and the Human Resources Director.

2. Step 2

If the grievance is not resolved by the supervisor to the satisfaction of the employee, and the supervisor is not the Department Head, the employee may present the grievance in writing to his/her Department Head within 10 calendar days after receipt of the response from Step 1. The Department Head shall respond to the complaint, stating the determination or decision within 10 calendar days after receipt of the grievance. The Department Head's response shall be in writing and signed by the

Department Head. In addition, the employee shall sign a copy to acknowledge receipt thereof. The Department Head shall send a copy of the grievance and response to the Human Resources Director.

3. **Step 3**

If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, and the Department Head is not the City Manager, the employee may present the grievance in writing to the City Manager. The employee should attach all responses received from the supervisor and/or Department Head to the grievance. Within 10 calendar days after receipt of the grievance, the City Manager will call a meeting which will include the employee, the employee's supervisor, the Department Head, the Human Resources Director, and any other persons involved in the grievance. The City Manager will make a written report of his/her decision within five calendar days following the meeting and will deliver the decision to the employee, supervisor, Department Head, and Human Resources Director.

Section 1707. Appeals

The City Manager's decision on a grievance shall be final for all situations other than those which may be appealed pursuant to Chapter 17 of the Gaithersburg City Code, Personnel Ordinance, Section 17-9, entitled "Filing of Appeal," which states:

"All classified employees, as well as any Department Head or Assistant City Manager hired or appointed prior to June 30, 2009, who have been suspended, demoted or terminated may file an appeal in writing to the Personnel Review Board and may request a hearing thereon. Such appeal shall state the pertinent facts relative to the action which is being appealed and shall be signed by the employee and filed with the Personnel Review Board within five days after receipt by the employee of the notice of such suspension, demotion or termination."

Section 1708. Role of Human Resources in Grievance Process

Throughout the grievance process, the role of the Human Resources Department shall be to:

- a. Advise parties (including employees, supervisors, Department Heads, and the City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application.
- b. Be a clearinghouse for information and decisions in the matter including maintaining of all grievance documents.
- c. Give notices to parties concerning timetables of the process.
- d. Assist in drafting statements, if requested.
- e. Facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process.
- f. Determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.